

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Reconvene: By **CHAIRMAN DON RYAN**, on January 14, 2005 at 3:15 P.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Don Ryan, Chairman (D)
Sen. Gregory D. Barkus (R)
Sen. Jerry W. Black (R)
Sen. Jim Elliott (D)
Sen. Kim Gillan (D)
Sen. Bob Hawks (D)
Sen. Sam Kitzenberg (R)
Sen. Jesse Laslovich (D)
Sen. Jeff Mangan (D)
Sen. Dan McGee (R)
Sen. Bob Story Jr. (R)

Members Excused: None.

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Lois O'Connor, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing and Date Posted: None.
Executive Action: SB 152 (Continued)

{Tape: 1; Side: A; Time Counter: 4.7}

EXECUTIVE ACTION ON SB 152 (CONTINUED)

Motion: SEN. DAN MCGEE moved to adopt amendment SB015204.ace.

EXHIBIT(eds10a07)

Discussion: SEN. MCGEE said that SB015204.ace references Article X, section 1 and Article X, section 8, of the Montana Constitution and includes them in the WHEREAS clauses and it strikes Sections 1 and 2 from SB 152. He said that if the District and Supreme Courts' orders are to have any basis they must be ruled on the basis of law. He has always questioned the genesis of the phrase "educationally relevant factors". It is not in the Constitution or in law. The Court has created that phrase and then ruled based on that phrase. Furthermore, the order states that the funding procedure will be unconstitutional until the Legislature makes its funding relevant to "educationally relevant factors". In so doing, the Court has legislated to the Legislature. SEN. MCGEE feels that the Supreme Court violated its oath of office and the separation of powers.

SEN. MCGEE said that striking the two WHEREAS clauses that discuss the educationally relevant factors being ordered by the Court is the proper thing for the Committee to do. He added that striking Sections 1 and 2 is also proper. Section 1 has nothing to do with the philosophy in question and Section 2 contains language that references instruction in public schools while the text of SB 152 references a basic educational program.

SEN. KIM GILLAN asked if the Committee struck Sections 1 and 2 from SB 152, would it be eliminating the language from SB 152 only or eliminating the language permanently from the statute.

SEN. MCGEE said the language would be eliminated from SB 152 only.

Substitute Motion: SEN. GILLAN made a substitute motion to segregate the amendments in SB0152045.ace.

SEN. GILLAN asked why Sections 1 and 2 were so onerous to the home school community. SEN. MCGEE was unsure, but felt that the language "instructional" has a different connotation than the language "educational". "Educational" language may end up having some unintended consequences that affect home schools. His point is that SB 152 can move forward without Sections 1 and 2. SEN. GILLAN felt that misinformation has been distributed about the two sections, and she did not share SEN. MCGEE'S concerns.

SEN. JESSE LASLOVICH asked about the reason for striking "instructional" and inserting "educational". **SEN. DON RYAN** said that it was a request from OPI to ensure that the language remained consistent throughout the educational statutes. He said that if it was a problem, he would not oppose their removal.

Ms. Erickson said that **SEN. MCGEE'S** amendment #3 will strike the language adopted by the Committee in **SEN. BARKUS'** amendment SB015203.ace.

SEN. JEFF MANGAN opposed SB015204.ace because it did not sufficiently address the reason for the introduction of SB 152.

Motion/Vote: **SEN. GILLAN** moved to adopt amendments #2 and #4 of SB015204.ace. Motion carried on a 9 to 2 roll call vote with **SENATORS GILLAN** and **MANGAN** voting no.

SEN. MCGEE reserved the right to speak to amendments #1 and #3 of SB015204.ace during the Committee of the Whole debate on SB 152.

{Tape: 1; Side: A; Time Counter: 22.7}

Motion: **SEN. BOB HAWKS** moved to adopt amendment SB015201.acl.

EXHIBIT(eds10a08)

Discussion: **SEN. HAWKS** said that SB015201.acl is a reintroduced version of the amendment that he proposed on January 13, 2005. He believed that the language "quality" implies output in schools and felt that it is the Legislature's responsibility to have a state-of-education report followup on how education is being conducted in Montana on a periodic basis.

Vote: **SEN. HAWKS'** motion carried unanimously on a voice vote.

{Tape: 1; Side: A; Time Counter: 26.1}

Motion: **SEN. SAM KITZENBERG** moved to adopt amendment SB015202.aem.

EXHIBIT(eds10a09)

Discussion: **SEN. KITZENBERG** said that accreditation standards are reassessed every five years. SB015202.aem authorizes the Legislature to study the reassessments every six years to incorporate the results into the state's funding formula.

SEN. STORY asked if it were standard practice for the current Legislature to put a requirement on a future Legislature. **Ms. Erickson** said that current Legislatures cannot bind future Legislatures to spending issues. When the time comes to authorize the study, money would need to be appropriated at that time. Since **Eddye McClure, Staff Attorney, Legislative Services Division**, drafted SB015202.aem, she felt that **Ms. McClure** would have taken that into account and said something if it were an issue.

SEN. RYAN felt it important to keep the funding formula and standards current with what the Board of Public Education is proposing so that the Legislature has the ability to correct any problems. **Ms. Erickson** added that legislative leadership could also choose to authorize a select committee to conduct the study or assign the study to the Interim Committee on Education and Local Government.

Vote: **SEN. KITZENBERG's** amendment carried unanimously on a voice vote.

{Tape: 1; Side: B; Time Counter: 3.3}

Motion: **SEN. MANGAN** moved to adopt amendment SB015206.ace.

EXHIBIT(eds10a10)

Discussion: **SEN. MANGAN** said that SB015206.ace4 clarifies that there are educationally relevant factors in both subsections (2) and (3).

Vote: **SEN. MANGAN's** amendment carried on a unanimous voice vote.

{Tape: 1; Side: B; Time Counter: 4.6}

Motion/Vote: **SEN. STORY** moved to segregate and adopt amendments 1, 2, 9, and 12 of SB015205.ace. The motion passed unanimously by voice vote.

EXHIBIT(eds10a11)

{Tape: 1; Side: B; Time Counter: 10.9}

Motion: **SEN. STORY** moved to adopt the remainder of amendment SB015205.ace. (See Exhibit #11)

Discussion: **SEN. STORY** said that SB015205.ace attempts the following:

- (1) simplify the definition of what a basic quality school systems is and lists the relevant factors in the funding system;
- (2) SB 152 implies that the educationally relevant factors will be used for the funding system but does not specify what the educationally relevant factors will be used for within that system;
- (3) lists students as an important component in the system, but students are barely mentioned in the bill;
- (4) takes the Indian education issues out of the basic system and mentions them as other factors that the Legislature should consider as it goes through the funding system; and
- (5) moves the language of local control out of relevant issues in funding and puts it in other factors.

SEN. MANGAN opposed the adoption of the remainder of SB015205.ace. He said that the state can do a number of things during the funding process. Although it is unknown what the funding level will be, the Legislature has the ability to discuss and change its educational, revenue, and tax policies. SB 152's current language meets the needs, and the remainder of the amendments would do more harm than good.

Vote: SEN. STORY's motion to adopt the remaining amendments to SB015205.ace failed on a 4 to 7 roll call vote with SENATORS ELLIOTT, GILLAN, HAWKS, KITZENBERG, LASLOVICH, MANGAN, and RYAN voting no.

{Tape: 1; Side: B; Time Counter: 17.3}

Motion: SEN. RYAN moved to adopt amendment SB015204.aem.
[EXHIBIT](#)(eds10a12)

Discussion: SEN. RYAN said that SB015204.aem substitutes "distance" learning with "offsite" learning. Because an individual student has trouble within a school and needs to be removed, schools are sending instructors to the student's home. Rather than dealing with the student through technology, schools are dealing with the student offsite. By providing those services, schools believe that student should be a part of their ANB population. Offsite learning also provides more options for school districts to address students who need help, who are at a distance, and who are not available at the school.

SEN. STORY said that amendment 5 strikes language that the Committee discussed on January 13, 2005. He asked if **SEN. RYAN** was willing to withdraw amendment 5.

Substitute Motion: SEN. RYAN made a substitute motion to adopt amendments 1, 2, 3, and 4 of SB015204.aem.

Vote: SEN. RYAN's substitute motion carried 10 to 1 on a voice vote with SEN. BARKUS voting no.

{Tape: 1; Side: B; Time Counter: 23.3}

Motion: SEN. RYAN moved that SB 152 DO PASS AS AMENDED.

Discussion: SEN. McGEE said that the phrase "Indian Education For All" is not included in Title 20, chapter 1, part 5. He asked about the genesis of the phrase. SEN. RYAN said that the School Renewal Commission believed that Indian education was an unfunded mandate put on schools and the Court upheld that the Legislature had to address the issue. It is referenced in the Constitution and the Legislature adopted language that the state would provide Indian Education For All within school curriculums.

Ms. Erickson said that the term "Indian Education For All" was adopted by the State Board of Education which consists of the Board of Regents and the Board of Public Education. "Indian Education For All" was used to describe Title 20, chapter 1, part 5. She added that when bill drafting began, she and **Eddy McClure, Legislative Services Division**, questioned whether to use the term because it did not appear in statute. **Greg Petesch, Director of Legal Services, Legislative Services Division**, believed it appropriate to use the term because it has come to be used and known by people who are familiar with the term and that, most likely, in the next addition of the Montana Code Annotated, the title of that part will be changed to read "Indian Education For All".

SEN. McGEE asked what **SEN. RYAN** was intending to do with the language referencing "Indian Education For All" in SB 152. **SEN. RYAN** said that he would check with legislative staff to see if the language is technically correct and if it would be proper to reference Title 20 before SB 152 goes to the Committee of the Whole for debate.

{Tape: 2; Side: A; Time Counter: 0.2}

SEN. STORY stated the following:

- (1) He would oppose SB 152 as amended because he had concerns about where the state would end up within the educational system process;
- (2) SB 152 is unclear about what a basic system of education is, even though it includes educationally relevant factors;

- (3) SB 152 does not mention the most important thing in the educational system which is the students;
- (4) SB 152 is an input-driven bill, and very few people will go to an architect and ask them to build house and not consider the cost;
- (5) His concern is that the state will be unable to fulfill the promises made in SB 152 when the funding is attached to it;
- (6) He was disappointed that the Committee was in a rush to move forward to meet the promises and political agenda that was started at the beginning of the session; and
- (7) He was concerned that the Senate was going forward with a bill that is not in particularly good shape, send it to the House, and let them be the drivers in the educational issue.

SEN. MANGAN supported SB 152 and felt it unnecessary to include the word "student" or "children" on every line because it was implied in the bill. Every factor identified revolves around what the Committee is here for. He commended the Committee for its good work, and Committee members must work with the less inexperienced members of the House to ensure that they do the right thing.

{Tape: 2; Side: A; Time Counter: 6.0}

SEN. GILLAN said that the public school system implies that the state is going to have "students" in them. She felt that all Committee members, through the amendments process, received a little bit of what they want in SB 152; and now that SB 152 has been discussed, the public is more engaged.

SEN. JIM ELLIOTT said that there is no political agenda contained in SB 152, but there is a policy agenda. The policy is for the Legislature to get to work, get the job done, and get the job done properly for the citizens of Montana as ordered by the Supreme Court.

SEN. RYAN thanked the Committee for its work and for making it a better bill than what it was in the beginning. He said that SB 152 is not perfect, but it sets the ground rules for the next step which is a new funding formula.

Vote: **SEN. RYAN's motion that SB 152 DO PASS AS AMENDED carried on a 7 to 4 roll call vote with SENATORS BARKUS, BLACK, MCGEE, and STORY voting no.**

Informational Testimony: Committee members received a synopsis of the minutes from the VisionNet Quality Education Videoconference held on January 13, 2005, and a letter from the

Polson Schools, District No. 23, outlining the essential skills and knowledge that graduating students should have in place.

[EXHIBIT](#) (eds10a13)

[EXHIBIT](#) (eds10a14)

ADJOURNMENT

Adjournment: 4:20 P.M.

SEN. DON RYAN, Chairman

LOIS O'CONNOR, Secretary

DR/LO

Additional Exhibits:

EXHIBIT ([eds10aad0.TIF](#))